

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMI NECO SCHMIDT,

Plaintiff,

vs.

**CITY OF BELLA VILLA and
CHIEF OF POLICE
EDWARD LOCKE, JR.,**

Defendants.

Case No. 4:06CV265SNL

ORDER

This matter is before the Court on the plaintiff's motion to compel discovery (#17), filed December 1, 2006. Defendants have filed a responsive pleading.

Plaintiff seeks further responses to the following discovery:

- 1) Production Request #3 directed to defendant Locke seeking all of his personnel files from any and all of his employers over the past 5 years;
- 2) Production Request #4 directed to defendant Locke seeking all of his performance evaluations made by or on behalf of defendant City of Bella Villa;
- 3) Production Request #5 directed to defendant Locke for all disciplinary records regarding defendant Locke by any and all present and past law enforcement employers;
- 4) Production Request #8 directed to defendant Locke for copies of all complaints against defendant Locke regarding his law enforcement activities lodged with defendant City of Bella Vista over past 5 years;
- 5) Production Request #4 directed to defendant City of Bella Vista for all personnel files pertaining to defendant Locke for last 5 years;
- 6) Production Request #5 directed to defendant City of Bella Vista for all performance evaluations regarding defendant Locke for last 5 years;
- 7) Production Request #6 directed to defendant City of Bella Vista for all disciplinary records pertaining to defendant Locke by any and all present and past law enforcement employers; and
- 8) Production Request #9 directed to defendant City of Bella Vista for all records pertaining to the hiring of defendant Locke.

Plaintiff maintains that she is entitled to this discovery because she has adequately pled a cause of action for municipal liability. Defendants, on the other hand, maintain that 1) they have already produced defendant City of Bella Vista's personnel file on defendant Locke and do not have custody or control over the personnel files maintained by any other previous employer of defendant Locke; 2) defendant Locke does not possess any performance evaluations made by or on behalf of defendant City of Bella Vista and defendant City of Bella Vista objects as the request violates Missouri Sunshine Act, and furthermore, does not possess any performance evaluations pertaining to defendant Locke; 3) any records pertaining to disciplinary actions regarding defendant Locke are protected by Missouri Sunshine Act; 4) any records pertaining to complaints lodged against defendant Locke are protected by Missouri Sunshine Act; and 5) any records pertaining to the hiring of defendant Locke by defendant City of Bella Vista are protected by Missouri Sunshine Act.

Plaintiff carries the burden of proof as to his discovery requests, and has failed to rebut defendant's arguments regarding coverage by the Missouri Sunshine Act. Since defendants have turned over defendant's personnel file, and the Court agrees that neither defendant is responsible for obtaining records from any other prior employer of defendant Locke, the Court will deny plaintiff's motion to compel.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to compel (#17) be and is **DENIED**.

Dated this 19th day of January, 2007.

A handwritten signature in dark ink, appearing to read "Stephen L. Limbaugh". The signature is written in a cursive, flowing style.

SENIOR UNITED STATES DISTRICT JUDGE

